



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

September 30, 2011

Via Electronic Mail

Federal Communications Commission
Commission Secretary
FCC Headquarters
445 12th Street SW
Room TW-A325
Washington, DC 20554

In the Matter of Acceleration of Broadband Deployment Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting (WC Docket No. 11-59)

To Whom it May Concern:

The Metropolitan Water District of Southern California (Metropolitan) submits these comments in the above-captioned inquiry proceeding. The communications industry has submitted comments to the Federal Communications Commission (Commission) as part of this proceeding that criticize not only local regulation, but also prices charged by all types of public entities, including special districts, for the use of all types of public real estate.¹ The industry appears to suggest that the Commission can rewrite existing leases and contracts for use of publicly-owned personal and real property.² We urge the Commission to respect Metropolitan's basic property rights and operational needs, and to recognize that wireless service providers should not be allowed to place additional facilities on Metropolitan's property, including water district structures and other facilities, at less than fair market value and without our consent. We respectfully request the Commission to consider the following comments as it conducts this inquiry.

¹ Comments of Level 3 Communications, LLC, WC Docket No. 11-59 (July 18, 2011) (urging the Commission to preempt the pricing terms of the contract that Level 3's predecessor-in-interest entered into with the New York State Thruway Authority); Comments of CenturyLink, WC Docket No. 11-59, at 8 (July 18, 2011) (criticizing policies of Elephant Butte Irrigation District).

² *California Water and Tel. Co.*, 64 FCC 2d 753, 758-59 (1977).

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Metropolitan is a California public agency and regional water wholesaler. It is comprised of 26 member public agencies serving 19 million people in six counties in Southern California. Metropolitan imports approximately 60 percent of the water supplies for Southern California via the Colorado River through Metropolitan's Colorado River Aqueduct system (CRA) and its contract for supplies from the State Water Project. In order to deliver its supplies, Metropolitan owns and operates a complex system of water infrastructure through Southern California on over 160,000 acres.

Under California law, Metropolitan has the authority to "take by grant, purchase, bequest, devise or lease, and may hold, enjoy, lease, sell or otherwise dispose of, any and all real and personal property of any kind within or without the district and within and without the state necessary or convenient to the full exercise of its powers." Metropolitan may also "acquire, construct or operate, control, and use any and all works, facilities, and means necessary or convenient to the exercise of its powers, both within and without the district and within and without the state, and may do and perform any and all things necessary or convenient to carry out any powers of the district." Cal. Uncod. Water Code Act 570 § 140. Metropolitan requires "fair market value" for use of its property based on an appraised valuation. MWD Admin. Code § 8231.

As part of its critical infrastructure to ensure the reliability of Metropolitan's water supply to Southern California, Metropolitan owns and operates several communication towers and manages numerous other telecommunication leases. Metropolitan's communication system is essential to monitoring and protecting the integrity of its water infrastructure across Southern California, including the CRA and an intricate system of distribution and conveyance facilities. Metropolitan's towers are located on its fee-owned property within the operational confines of Metropolitan's water infrastructure facilities. There are public safety consequences if a wireless facility installation interferes with Metropolitan facilities or operational control of its facilities. This makes it critical for Metropolitan to maintain strict control over (1) who may place other types of facility on existing property or structures and (2) what type of facilities may be placed on Metropolitan property and/or structures. Metropolitan must maintain the right to prohibit placement of telecommunication equipment on its critical water infrastructure to ensure that its operations and maintenance are not adversely impacted. In addition, allowing access to Metropolitan's operational facilities and the towers located within these facilities raises issues of homeland security that require a case-by-case analysis of applicants of use of space on its towers.

Metropolitan owns most of its property in fee (as opposed to owning a road, like a city or county does, as a public right of way), and its fee interests are similar to those of any private property owner. The Commission should not have the ability to impose federal regulations for broadband companies upon local agencies under these conditions. Decisions regarding any developments or installations on Metropolitan's property should be the sole responsibility of Metropolitan along with local government use permit authorities.

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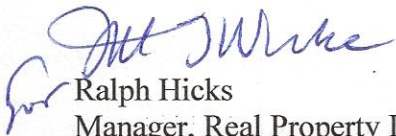
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Generally speaking, there are basic issues in dealing with wireless/broadband carriers at water agency sites that need to be dealt with locally (and directly) without federal rules interfering with local agency needs. Many water agencies are averse to allowing any wireless installation on their properties. These agencies do not wish to have the burden of outside personnel accessing their property. There are particular concerns with site security, response to complaint calls from local residents, noise complaints, and after (normal business) hour activities. Metropolitan's authority as a local government body should not be usurped by unnecessary federal regulations. Rather the Commission should develop local/regional workgroups to address its concerns without interfering with local agency authority.

In closing, Metropolitan is not looking to hinder broadband deployment. Metropolitan currently allows use of its property and grants access to its property using a well established and fair process based on the issuance of leases/licenses. Furthermore, in many instances alternatives to the use of Metropolitan's property are available. Based on this and the comments above, Metropolitan believes the Commission should not attempt to impose "umbrella" mandates unnecessarily.

We appreciate the opportunity to provide input to your planning process and we look forward to receiving future information on this inquiry. If we can be of further assistance, please contact Ms. Jill Wicke at 213-217-6306.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Ralph Hicks", is written over the printed name.

Ralph Hicks
Manager, Real Property Development
and Management Group